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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

MAY 22 1998

In the Matter of
Advanced Television Systems
and Their Impact upon the
Existing Television Broadcast
Service

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RM Docket No. 9260

To: The Commission

COMMENTS OF KM BROADCASTING, INC.

KM Broadcasting, Inc. ("KMB"), licensee of Low Power Television Station WXOB-LP, Channel 14, Richmond, Virginia, hereby submits its comments in response to the FCC Public Notice released on April 21, 1998, with respect to the above-referenced proceeding. In that Public Notice, the Commission established a comment period regarding the Petition for Rulemaking filed by the Community Broadcasters Association ("CBA"). The CBA filing requests amendment of the Television Broadcast rules in Part 73 to create a "Class A" television service.

KMB fully supports the proposal of the CBA to establish a Class A television service. KMB strongly believes that licensees in the LPTV service, currently regulated as a secondary service, should be given the opportunity to become Class A licensees as generally proposed and improve their status to one of primary service for several reasons.

Initially, LPTV licensees have spent a substantial amount of time, effort and money to create a television service that is in jeopardy of being decimated by the Commission's DTV proceeding. As

KMB has urged in the past, this is unreasonable and unnecessary. The creation of a Class A television service will at a basic level afford the opportunity to preserve the low power television industry.

In addition, the CBA proposal will guarantee that even more local programming will be broadcast to the public than exists now. This will provide an enormous public interest benefit while at the same time allowing LPTV licensees the opportunity to save their stations.

Finally, the LPTV service consists of the highest percentage of minority ownership in any broadcast service.¹ If the Commission is sincere in its stated goal of enhancing minority ownership of FCC licenses, it must first start with the preservation of service in which the highest number of broadcast licenses are already held by minorities.

Consequently, KMB strongly urges the Commission to institute a rulemaking for the creation of Class A television licenses under the general requirements as proposed by the CBA. However, KMB would add the following suggestions to the proposed CBA rules.

1. Any Class A rules should incorporate all current FCC standards and methodologies for determining interference between television stations rather than adopt any new standards proposed by the CBA which could potentially restrict a potential Class A licensee's ability to meet FCC interference standards and thus

¹ Informal estimates are that approximately 40% of LPTV licensees are held by minorities and/or women.

hamper its ability to meet FCC requirements. In light of the current threat to the existence of the LPTV industry, the Commission in the formulation of the Class A television service rules should not establish standards more stringent than the current standards as regards interference.

2. The Class A rules should allow a station to meet the programming requirements by airing programming which is produced either within the protected service area of the station or within the city of license of the station. This will ensure that programming is indeed local.

3. The term locally-produced should be clearly defined, so that there is no ambiguity in this definition, both as to the term "local" and the term "produced".² Also, the Commission should clarify whether the three hours of locally-produced programming may include locally-produced commercials or public service announcements, as well as repeated programming.

4. With regard to filing fees, the CBA proposal is problematic in that it would appear that the filing fee as proposed would be excessive and not within the FCC's statutory authority. As the FCC itself has stated, the "core" of the FCC filing fee program is "to reimburse the government -- and the general public -- for

² As an example, a news program produced in and broadcast from Washington, DC, which shows video news clips filmed in locations internationally, should be credited with locally produced programming for the entire length of the program. In other words, a locally-produced programming which includes video shot elsewhere but imported to create the locally-produced show should meet the definition of locally produced. The same should apply to a locally produced program which shows a movie in between taped comments of the on-air person hosting the movie.

the regulatory services provided to certain members of the public."³ Consequently, this proposal needs to be modified to conform with statutory requirements and not impose a fee which exceeds the cost to process Class A license applications.

WHEREFORE, the foregoing premises considered, KMB respectfully requests that Commission consider the foregoing comments of KMB and initiate a rulemaking to amend the Television Broadcast rules in Part 73 to create a "Class A" television service along the guidelines proposed by the Community Broadcasters Association at the Commission's earliest opportunity.

Respectfully submitted,

KM BROADCASTING, INC.

By: Robert E. Kelly

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Dated: May 22, 1998

³ In the Matter of Establishment of a Fee Collection Program to Implement the Provisions of the Consolidate Omnibus Budget Reconciliation Act of 1985, 2 FCC Rcd 947 (1987).

CERTIFICATE OF SERVICE

I, Robert E. Kelly, President of KM Broadcasting, Inc., do hereby certify that I have caused to be sent by the U.S. Postal Service on this 22nd day of May, 1998, a copy of the foregoing "Comments" to:

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*By Hand Delivery